

TWO RICH PARTNERSHIP

IBLA 83-801

Decided July 30, 1984

Appeal from a decision of the New Mexico State Office, Bureau of Land Management, rejecting oil and gas lease offer NM 56409.

Reversed and remanded.

1. Oil and Gas Leases: Generally -- Oil and Gas Leases: Applications:
Generally

Where BLM's request for additional information may reasonably be interpreted as not subject to a specific time limit, its rejection of an offer for failure by the offeror to submit the requested materials within 30 days must be reversed.

APPEARANCES: Edward B. Poitevent, II, Esq., and C. S. Henson, Esq., New Orleans, Louisiana, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Two Rich Partnership appeals from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated June 7, 1983, rejecting its oil and gas lease offer NM 56409 for failure to submit information requested by BLM within "the 30 day period allowed for filing of the information."

Appellant's simultaneous oil and gas lease application was drawn with first priority for parcel NM 224 in the February 1983 drawing. On April 26, 1983, BLM sent appellant a form decision concerning its first-priority status which included the following notice: "You are allowed thirty days from receipt of this decision in which to execute and file in this office all copies of the lease form and stipulations and pay the first year's rental in the amount of \$480.00." Between a closing paragraph reciting the right of appeal to the Board of Land Appeals and the signature of the responsible BLM official was inserted the following: "NOTE: Please furnish this office with a copy of partnership agreement, and filing service agreement. (Regs. 43 CFR 3102.5)." Appellant's executed lease forms, signed stipulations, and first year's rental were received by BLM on May 13, 1983, but the requested information was not included. When BLM did not receive it by June 6, 1983, it rejected the lease offer for failure to file within a 30-day period. 1/

1/ In its June 7, 1983, decision, BLM states that appellant received the Apr. 26, 1983, decision and notice on May 5, 1983.

The requested agreements were received by BLM on June 23, 1983, and placed in the case file for NM 56409.

Among several arguments presented in its statement of reasons, Two Rich Partnership asserts that BLM's request for additional information did not mention a specific time limit within which it was to be filed. Therefore, it argues, the decision to reject the offer for failure to comply with an unspecified time limit is arbitrary and capricious.

[1] Departmental regulation 43 CFR 3102.5 (1982), in effect when appellant was requested to submit specified information, reads in part: "Anyone seeking to acquire, or anyone holding, a Federal oil or gas lease or interest therein, may be required to submit additional information to show compliance with the regulations of this group [(43 CFR Group 3100)] and the Act [(Mineral Leasing Act of 1920)]." It is well established that BLM may request whatever information is necessary to clarify the status of an offeror or applicant and that it may set time limits for the filing of such information. Where an oil and gas offeror or applicant fails to respond within a prescribed time to an order directing him to submit specific information necessary to determine whether his offer is valid, it is appropriate to reject the offer. Ken Wiley, 54 IBLA 367 (1981). See also James M. Chudnow, 68 IBLA 87 (1982) (request to submit special stipulations).

The information sought from appellant is relevant and consequential to BLM's determination of the first-qualified lease applicant. Prior to February 26, 1982, a partnership submitting simultaneous oil and gas lease applications with the help of a filing service was automatically required to file the appropriate documents for the partnership and the filing service arrangement. See 47 FR 8544, 8545 (Feb. 26, 1982); 43 CFR 3102.2-4, .2-6 (1981). Such was not the case at the time appellant's lease application was filed. ^{2/} However, the regulations continue to proscribe arrangements, schemes, or plans entered into prior to selection under the simultaneous program which give any party or parties more than a single opportunity of successfully obtaining a lease or interest therein. 43 CFR 3112.5-1(b). Hence, BLM will, on occasion, request documents concerning partnerships or filing service arrangements. No specified time limits have been assigned in 43 CFR Group 3100 to the filing of such additional information.

Appellant contends that it has complied with BLM's request. Indeed, there is no specific mention that the requested materials, which were in addition to the items set forth in the form letter, were subject to the 30-day time limit applied to the return of the executed lease forms and the rental fee. In Patricia B. Amoroso, 55 IBLA 190 (1981), the Board reviewed BLM's rejection of an offer for failure to submit the certification of qualifications within 30 days after it was requested. As with the present situation, there was no specific mention of a time period for filing the requested materials. We held: "Since there is nothing in the file to show that appellant

^{2/} Since the decision appealed from was issued, BLM has announced its intention to require partnerships to file a list of the partners with all simultaneous oil and gas lease applications filed after Aug. 22, 1983. 48 FR 37656 (Aug. 19, 1983).

was required to submit certification within a certain time, we conclude that BLM had no grounds for rejecting the offer," and reversed BLM's rejection of the offer. Id. at 191.

We have established with regard to Departmental regulations that they may not be strictly applied unless they are sufficiently clear so that there is no reasonable basis for failure to comply. Elmer T. Stonecipher, 71 IBLA 203 (1983). Likewise, an obligation imposed by BLM should be well defined and apparent so as to preclude inadvertent noncompliance. Where BLM's request for additional information may reasonably be interpreted as not subject to a specific time limit, its rejection of an offer for failure to file the requested material within 30 days must be reversed. Our adjudication of the appeal is necessarily based on the information in the case file before us and there is nothing in it to show that BLM's request for information here was definitely subject to a specified time limit.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case is remanded for further adjudication.

C. Randall Grant, Jr.
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Gail M. Frazier
Administrative Judge.

